IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

Bail Appl..No. 5545 of 2007()
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CRIME NO.310/07 OF KODAKARA POLICE STATION
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: PETITIONER/ACCUSED
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INKARAN @ CHANDRAN,
S/O.KONNAN, AGED 39, KANNAMPILLY HOUSE,
P.O, ANANDAPURAM, TRISSUR,

BY ADV. SRI.S.RAJEEV

RESPONDENTS: STATE
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STATE
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM(CRIME NO.310/07 OF KODAKARA POLICE STATION)

BY P.P. SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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**B.A. No. 5545 OF 2007**

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Dated this the 18th day of September, 2007

**ORDER**

Application for anticipatory bail. The petitioner is the 2nd accused. He along with the 1st accused faces allegation of having committed offences punishable, inter alia, under Secs.452 and 324 read with Sec.34 of the IPC. The 1st accused is allegedly a known rowdy of the locality. Both accused had allegedly gone to the premises of the de facto complainant and trespassed into the building, after having made preparations earlier, and had assaulted the de facto complainant. The role assigned to the 2nd accused is that he caught hold of the de facto complainant and facilitated the attack.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He was present at the premises of the de facto complainant to question the de facto

complainant about the alleged misbehaviour of the de facto complainant to the daughter of the petitioner. The 1st accused was present there and his presence had no relationship with the presence of the petitioner. In any view of the matter, the petitioner, who has no criminal antecedents and against whom no specific overt act of violence is alleged, may now be granted anticipatory bail, prays the learned counsel for the petitioner.

3. This application is opposed by the learned Public Prosecutor. The learned Public Prosecutor submits that there are no circumstances justifying or warranting the invocation of the discretion under Sec.438 of the Cr.P.C. The petitioner may be directed to follow the normal course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course, submits the learned Public Prosecutor.

4. I find merit in the opposition by the learned Public Prosecutor. I find no features in this case which can justify or warrant the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. This petition must hence fail.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail,

after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

**Sd/-**

**(R. BASANT, JUDGE)**

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P.S. to Judge